

REMARKS

Applicants acknowledge receipt of an Office Action dated May 21, 2009. In this response, Applicants have amended claims 1, 3 and 6, and have canceled claims 5 and 7-10. Support for the amendments may be found in the specification as originally filed including, *inter alia*, at pg. 7, lines. 14-30; page 11, lines 6-9; and page 14, lines 15-17.

Applicants respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim Objections

On page 2 of the Office Action, the Office states that should claim 7 be found allowable, claim 8 will be objected to as being a substantial duplicate thereof. While Applicants do not acquiesce in the objection, claims 7 and 8 have been cancelled without prejudice or disclaimer in order to expedite prosecution by minimizing the number of issues before the Office. Applicants respectfully request withdrawal of this objection.

Rejections Under 35 U.S.C. § 112

Claim 3

On page 2 of the Office Action, the Office has rejected claims 3 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. In this response, claim 3 has been amended to reflect the Office's suggestion to clearly express the volume of the lithium compound as percentages. Withdrawal of this rejection is respectfully requested.

Claims 6-8

On page 3 of the Office Action, the Office has rejected claims 6-8 under 35 U.S.C. § 112, second paragraph, as allegedly being incomplete for omitting essential elements. While Applicants do not acquiesce in the rejection, claim 6 has been amended to add a negative electrode active material and an electrolyte layer, and claims 7 and 8 have been cancelled without prejudice or disclaimer in order to expedite prosecution by minimizing the number of issues before the Office. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 102

Claims 1 and 4-6

On page 3 of the Office Action, the Office has rejected claims 1 and 4-6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,071,649 to Mao *et al.* (hereafter “Mao”). Applicants respectfully traverse this rejection for at least the reasons set forth below.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

Mao fails to disclose, among other things, a positive electrode material for non-aqueous electrolyte lithium ion battery comprising a lithium compound, wherein the lithium compound comprises at least one selected from the group consisting of lithium phosphate, lithium phosphorus oxynitride (LiPON), $\text{Li}_2\text{O-B}_2\text{O}_3$ compound, $\text{Li}_2\text{O-B}_2\text{O}_3\text{-LiI}$ compound, $\text{Li}_2\text{O-SiS}_2$ compound, $\text{Li}_2\text{S-SiS}_2\text{-Li}_3\text{PO}_4$ compound, lithium hydroxide, lithium acetate, lithium acetylide-ethylenediamine complex, lithium benzoate, lithium carbonate, lithium fluoride, lithium oxalate, lithium pyruvate, lithium stearate, lithium tartrate, lithium bromide, lithium iodide, $\text{Li}_2\text{S-SiS}_2$, lithium sulfate as recited in claim 1. Claims 2-4 and 6 each depend from claim 1. Claim 5 has been cancelled.

For instance, Mao discloses a method of making an electrode material is LiNiO_2 coated with LiCoO_2 but does not disclose an electrode material comprising, for example, a $\text{Li}_2\text{O-SiS}_2$ compound.

For at least this reason, Applicants submit that Mao does not disclose all of the features of claim 1, and that Mao, therefore, cannot properly anticipate claim 1. Applicants note that claims 2-4 and 6 each ultimately depend from independent claim 1 and that these claims cannot be anticipated for at least the same reasons as claim 1. Reconsideration and withdrawal of this rejection is respectfully requested

Claim 1

On page 4 of the Office Action, the Office has rejected claim 1 under 35 U.S.C. §102(b) as being anticipated by Japanese Publication JP 09-050810 to Kurasawa (hereafter

"Kurasawa"). Applicants respectfully traverse this rejection for at least the reasons set forth below.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

Kurasawa fails to disclose a positive electrode material for non-aqueous electrolyte lithium ion battery comprising a lithium compound, wherein the lithium compound comprises at least one selected from the group consisting of lithium phosphate, lithium phosphorus oxynitride (LiPON), $\text{Li}_2\text{O-B}_2\text{O}_3$ compound, $\text{Li}_2\text{O-B}_2\text{O}_3\text{-LiI}$ compound, $\text{Li}_2\text{O-SiSi}_2$ compound, $\text{Li}_2\text{S-SiSi}_2\text{-Li}_3\text{PO}_4$ compound, lithium hydroxide, lithium acetate, lithium acetylide-ethylenediamine complex, lithium benzoate, lithium carbonate, lithium fluoride, lithium oxalate, lithium pyruvate, lithium stearate, lithium tartrate, lithium bromide, lithium iodide, $\text{Li}_2\text{S-SiSi}_2$, lithium sulfate as recited in claim 1.

For instance, Kurasawa discloses a lithium-nickel composite oxide coated with a lithium-transition metal composite oxide coated comprising Co, Mn and/or Fe but does not disclose an electrode material comprising, for example, a $\text{Li}_2\text{O-SiSi}_2$ compound.

For at least this reason, Applicants submit that Kurasawa does not disclose all of the features of claim 1, and that Kurasawa, therefore, cannot properly anticipate claim 1.

Rejections Under 35 U.S.C. § 103

Claim 2

On page 5 of the Office Action, the Office has rejected claim 2 under 35 U.S.C. §103(a) as being unpatentable over Kurasawa. Applicants respectfully traverse this rejection.

As described above, Kurasawa does not disclose or suggest all of the features of claim 1 from which claim 2 depends. Thus, Applicants submit that Kurasawa does not render claim 2 to be unpatentable.

Claim 3

On page 6 of the Office Action, the Office has rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Mao.

As described above, Mao does not disclose or suggest all of the features of claim 1 from which claim 3 depends. Thus, Applicants submit that Mao does not render claim 2 to be unpatentable. Reconsideration and withdrawal of this rejection is respectfully requested

Claim 7-10

On page 7 of the Office Action, the Office has rejected claims 7-10 under 35 U.S.C. § 103(a) as being unpatentable over Mao in view of U.S. Pub. No. 2002/0051904 to Itoh *et al.* (hereafter "Itoh").

While Applicants do not acquiesce in the objection, claims 7-10 have been cancelled without prejudice or disclaimer in order to expedite prosecution by minimizing the number of issues before the Office. Reconsideration and withdrawal of this rejection is respectfully requested

CONCLUSION

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.


The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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